

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 430**

4 (By Senator Trump)

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6 [Originating in the Committee on the Judiciary;
7 reported February 9, 2015.]
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11 A BILL to amend and reenact §48-27-507 of the Code of West Virginia, 1931, as amended; and to
12 amend said code by adding thereto a new section, designated §51-2A-2a, all relating to
13 exempting mutual orders enjoining certain contact between parties to a domestic relations
14 action from the prohibition against mutual protective orders; authorizing family courts of the
15 state to enter mutual orders enjoining certain contact between parties to a domestic relations
16 action; providing for certain terms and effective length of such orders; authorizing family
17 court to enforce its order through an order of contempt; and expressing intent of the
18 Legislature.

19 *Be it enacted by the Legislature of West Virginia:*

20 That §48-27-507 of the Code of West Virginia, 1931, as amended, be amended and
21 reenacted; and that said code be amended by adding thereto a new section, designated §51-2A-2a,
22 to read as follows:

1 **CHAPTER 48. DOMESTIC RELATIONS.**

2 **ARTICLE 27. PREVENTION AND TREATMENT OF DOMESTIC VIOLENCE.**

3 **§ 48-27-507. Mutual protective orders prohibited.**

4 Mutual protective orders are prohibited unless both parties have filed a petition under part
5 3 of this article and have proven the allegations of domestic violence by a preponderance of the
6 evidence. This shall not prevent other persons, including the respondent, from filing a separate
7 petition. The court may consolidate two or more petitions if he or she determines that consolidation
8 will further the interest of justice and judicial economy. The court shall enter a separate order for
9 each petition filed: Provided, That nothing in this section shall preclude the court from entering a
10 mutual order enjoining contact pursuant to section two-a, article two-a, chapter fifty-one of this code.

11 **CHAPTER 51. COURTS IN GENERAL.**

12 **ARTICLE 2A. FAMILY COURTS.**

13 **§51-2A-2a. Family court jurisdiction to mutually enjoin contact between parties.**

14 (a) A family court in its discretion may, at any time during the pendency of any action
15 prosecuted under chapter forty-eight of this code, enjoin contact between the parties thereto without
16 a finding of domestic violence under article twenty-seven of said chapter. This order, which is not
17 considered a protective order for purposes of section five hundred seven, article twenty-seven,
18 chapter forty-eight of this code, may enjoin both parties from physical, electronic, telephonic, or
19 written contact not expressly necessary for the prosecution of the underlying action or any obligation
20 resulting therefrom. This order may be entered by the court: (1) When both parties to the action
21 consent to such order at the time of entry; (2) upon motion of a party to the action; or (3) upon its
22 own motion. Any order under this section may enjoin one or both parties from:

1 (1) Entering the home, school, business or place of employment of the other for the purpose
2 of bothering or annoying the other;

3 (2) Contacting the other, in person, in writing, electronically or by telephone, for purposes
4 not clearly necessary for the prosecution of the underlying action or any obligation related thereto
5 or resulting therefrom;

6 (3) Any other activity or behavior the court, in its discretion, deems to be detrimental to the
7 peace of the parties or their immediate family members.

8 (b) Nothing in this section shall preclude the court from entering an emergency protective
9 order, or final protective order, as provided in article twenty-seven, chapter forty-eight of this code.

10 (c) Notwithstanding the provisions of section five hundred five, article twenty-seven, chapter
11 forty-eight of this code, an order entered pursuant to the provisions of this section shall remain in
12 effect for the period of time for which it was granted unless otherwise ordered by the judge.

13 (d) The court may enforce its order through an order of contempt, pursuant to section nine
14 of this article, against one or both of the parties whose conduct is enjoined under this section.

15 (e) It is the express intent of the Legislature that orders issued pursuant to this section are to
16 enjoin behavior which is not of sufficient severity to implicate the provisions of the federal Gun
17 Control Act.
